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December 20, 2021

Margaret Kane
Assistant U.S. Attorney
801 West Superior Avenue
Suite 400
Cleveland, Ohio 44113

RE: *USA v. Michael Kleinschmidt* - Case No. 1:21CR865

Dear Ms. Kane:

Pursuant to the Federal Criminal Rules of Procedure and *Brady v. Maryland*, 373 U.S. 83 (1963), and all other applicable rules and statutes, I am writing to request discovery in the above case.

This request includes, but is not limited to, the following:

1. The Defendant's statements. Pursuant to Federal Criminal Rule of Procedure 16(a)(1)(A) and (B) I request on behalf of the Defendant the substance of any oral and / or written or recorded statements made by the Defendant, in a response by the Defendant to interrogation, and any written summaries of this Defendant's oral statements contained in any hand-written note of any government agent and any other statement that is discoverable under the Federal Rules.
2. The Defendant's prior record. Pursuant to Federal Criminal Rule of Procedure 16(a)(1)(D) Defendant is requesting a copy of his prior criminal record which is in the government's possession, custody, or control which the government's attorney knows or through due diligence could know that the record exists.
3. Tangible objects. Pursuant to Federal Criminal Rule of Procedure 16(a)(1)(E), the Defendant requests the opportunity to inspect and/or copy as well as test if necessary, all documents and tangible objects which are material to the defense or intended for use in the government's case in chief or were obtained from or belong to the Defendant.

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4. Reports of scientific tests or examinations. Pursuant to Federal Criminal Rule of Procedure 16(a)(1)(F) this Defendant requests reports of all tests and examinations conducted upon the evidence in this case including but not limited to the results or reports of any physical or mental examination and of any scientific test or experiment that is in the possession, custody or control of the government, the existence of which is known or by exercise of due diligence may become known to the attorney for the government and which are material to the preparation of the defense or which are intended for use by the government in its case in chief.
5. Expert Witnesses. Pursuant to Federal Criminal Rule of Procedure 16(a)(1)(G), the Defendant requests that you provide to him a written summary of any testimony that the government intends to use under Rules 702, 703, or 705 of the Federal Rules of Evidence during its case-in-chief at trial.
6. Co-defendant/co-conspirator statements. Pursuant to Federal Rule of Evidence 801(d)(2)(E), Defendant requests pretrial discovery of any statement of any co-defendant and/or co-conspirator made during the course of any conspiracy whether or not those statements will be attributed to this Defendant.
7. Other offense evidence. Pursuant to Federal Rule of Evidence 404(b), Defendant requests notice of any other offense evidence which the government intends to introduce in its case-in-chief. Additionally, at the time you identify any other offense evidence you intend to offer in rebuttal, please produce and identify such evidence separately.
8. Summary charts or calculations. Pursuant to Federal Rule of Evidence 1006, Defendant requests that, in the event the government intends to use summary charts or calculations, or intends on calling a summary witness to present evidence in the form of a chart or calculation, he be provided with production, at a reasonable time prior to trial, with all of the original documents or recordings on which the summary testimony or charts are based.
9. *Brady* material. The Defendant requests all documents, all statements, including those of co-defendants, agent's reports and intangible evidence which are favorable to the Defendant on the issue of guilt and/or which affects the credibility of the government's case which would include impeachment as well as exculpatory evidence under the definition of *Brady v. Maryland*, 373 U.S. 83 (1963), *Giglio v. United States*, 405 U.S. 150 (1972) and *U.S. v. Bagley*, 473 U.S. 667.

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10. *Jencks* Act material. Defendant requests all material to which the Defendant is entitled pursuant to *Jencks*, 18 U.S.C. §3500 and Federal Criminal Rule 26.2. The Defendant specifically requests pretrial production of these materials within reasonable time prior to the date of the witness's direct examination statements.
11. *Giglio* material. Pursuant to *Giglio v. U.S.*, 405 U.S. 150 (1972), the Defendant requests all statements and/or promises, express or implied, made to any government witness in exchange for their testimony in this case and all information which could arguably be used for the impeachment of any government witness.
12. Defendant requests disclosure of the identities, qualifications and testimony of any expert witness the government intends to call at trial.
13. Witness list. Defendant makes this request to avoid any surprises at trial which would ultimately deny the Defendant's right of confrontation and cross-examination as protected by the United States Constitution.
14. Any and all evidence of any kind, nature or description, relating in any way to computation of the offense conduct level to be determined according to the Federal Sentencing Guidelines Manual in the event of conviction, including but not limited to evidence related to alleged relevant conduct and role in the offense of this Defendant.

Very truly yours,

/s/ *Lawrence J. Whitney*

Lawrence J. Whitney
Attorney at Law

LJW:pjz